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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,242	12/31/2003	Ryutaro Yamanaka	P24677	6967
7055	7590	05/23/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			CHAUDRY, MUJTABA M	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/748,242	YAMANAKA ET AL.
	Examiner	Art Unit
	Mujtaba K. Chaudry	2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 March 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 10-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 20 March 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/20/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' response was received March 20, 2006.

- Claims 1-9 were cancelled.
- Claims 10-23 are newly added.
- Applicants' remarks with regards to IDS are convincing and therefore IDS has been considered accordingly.
- Amendments to Figures 1-5 are accepted.
- Applicants contend Double Patenting rejection of the previous office action with respect to newly added claims, to which the Examiner can concur. However there exists another double patenting rejection which is presented herein below.

Application pending.

Response to Amendment

Applicant's arguments with respect to newly added claims 10-23 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicants' amendment. The Examiner would like to point out that this action is made final. See MPEP 706.07a.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially create doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 10-23 of the present Application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of USPN 6735714 (herein after: reference '714). Although the conflicting claims are not identical, they are not patentably distinct from each. For example, as per claims 10 and 17 of the present application, reference '714 substantially teaches (col. 19, claim 1) a digital signal processor comprising: an arithmetic logic unit configured to perform a register—register arithmetic logic operation, wherein the arithmetic logic unit is used to determine a first minimum data of a first data and a second data, in parallel with determination of a second minimum data of third of data and a fourth data. The subsequent limitation in the present claim is analogous to claim 2 of reference '714, wherein the DSP provides output data including a first minimum data and second minimum data. The term minimum is an adjective that describes a noun which is the level at

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which the data is. In either case a comparison is performed between the first and second data and the third and fourth data as stated in the present application. Not explicitly disclosed in reference '714 is the limitation of, "...wherein the output of one of the first data and the second data is provided as a higher part of a processing data and the output one of the third data and the fourth data is provided as a lower part of the processing data..." However, the Examiner would like to point out that the higher and lower parts are respectively performed among the first and second and third and fourth data and inherently have to be present since there are two minimum taught by reference '714. Therefore it would have been obvious to one of ordinary skill in the art to recognize that a first minimum and a second minimum can either be the same or one is higher/lower than the other, if that's what the claim intends to mean. Furthermore, the Examiner would like to point out that claims 10 and 17 are rejected under 35 USC 112 for this limitation.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite, "...wherein the output of one of the first data and the second data is provided as a **higher part of a processing data** and the output one of the third data and the fourth data is provided as a **lower part of the processing data...**" which is not clear. Higher and lower are relative terms and it is not clear with respect to what the claims refer to when stating higher and lower. There seem to be missing essential structural limitations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiries concerning this communication should be directed to the examiner, Mujtaba Chaudry who may be reached at 571-272-3817. The examiner may normally be reached Mon – Thur 6:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, Albert DeCady at 571-272-3819.


Mujtaba Chaudry
Art Unit 2133
May 4, 2006


GUY LAMARRE
PRIMARY EXAMINER